IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

TUESDAY, THE 25TH SEPTEMBER 2007 / 3RD ASWINA 1929

Bail Appl..No. 5759 of 2007()

CRIME NO.29/05 OF KUNNAMANGALAM EXCISE RANGE

: PETITIONER/ACCUSED:

MALU, W/O. NALLAN,
CHALIYADATH PARAMBIL HOUSE, POST CHATHAMANGALAM,
KOZHIKODE.

BY ADV. SRI.P.V.KUNHIKRISHNAN

RESPONDENTS: COMPLAINANT & STATE:

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1. EXCISE INSPECTOR OF POLICE,
KUNNAMANGALAM, KOZHIKODE.

2. STATE OF KERALA,
REPRESENTED BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.

BY PUBLIC PROSECUTOR SRI.JAI GEORGE

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 25/09/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J

B.A.No.5759 of 2007

Dated this the 25th day of September, 2007

ORDER

Application for anticipatory bail. the petitioner, a woman, faces allegations under the Kerala Abkari Act. She was allegedly found to be in possession of 15 litres of wash on 18.07.07. The petitioner was not arrested. Investigation is in progress. The petitioner apprehends arrest at any moment.

2. The learned counsel for the petitioner prays that directions under Section 438 Cr.P.C may be issued in favour of the petitioner. The learned Public Prosecutor opposes the application. I find absolutely no features in this case which would justify the invocation of the extraordinary equitable discretion under Section 438 Cr.P.C. This is an eminently fit case where the petitioner must resort to the ordinary and normal procedure of surrendering before the Investigating Officer or the learned Magistrate having jurisdiction. She must then seek regular bail.

3. This application is, in these circumstances, dismissed, but I may hasten to observe that if the petitioner surrenders before the Investigating Officer or the learned Magistrate and applies for bail after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass appropriate orders on merits and expeditiously.

(R.BASANT, JUDGE)

rtr/-